IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 26538 of 2001

Between:

1. Mohd.Abdul Rasheed, S/o. Adbul Rahim,
   R/o. 14-5-236, Mewatipura,
   Begum Bazar, Hyderabad.
2. M.A.Naeem, S/o. M.A.Raheem,
   R/o. 9-3-238/A, Balreddynagar,
   Towlichowki, Hyderabad.
3. M. Hanmath Rao, S/o. M.Krishna Murti,
   R/o. 10-2-341, Mallepally,
   Hyderabad.
4. Smt. P.Rajeshwar, W/o. P.Narsappa,
   R/o. 12-1-922/3, Mallapalli,
   Hyderabad.
5. Md. Masood Ali, S/o. Md.Mastan Ali,
   R/o. 12-1-604/A/33, Syed Ali Guda,
   Hyderabad.
6. Md.Sardar, S/o. Late Md.Sharfuddin,
   R/o. 13-1-357, Radar Khaspet,
   Hyderabad.
7. Syed Mukthar Ali, S/o. Syed Turab Ali,
   R/o. 10-2-503, Mehdipatnam,
   Hyderabad.
8. Mir Majid Ali, S/o. Mir Kasim Ali,
   R/o. 6-1-358, Khairtabad,
   Hyderabad.

..... PETITIONERS

AND

1. The Assistant City Planner,
   Circle No.4, Khairtabad,
   Hyderabad.
2. The Commissioner,

M.C.H. Tank Bund, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the impugned action of the Respondents dated 24.12.2001, threatening to demolish the Petitioners premises Nos.10-2-346/5, 12-1-886,10-2-346/3, 10-2-346/2, 10-2-346/1, 12-1-886/2, 10-2-503 and 12-2-842, 44 situated onMehdipatnam Noble Talkies Cross Road, Hyderabad as illegal, void and in violation of Sec.146 and 147 of the Hyderabad Municipal Corporation Act and the judgment of this Hon'ble Court in W.P.No.794/2001 dated 23.1.2001 and W.P.No.24141/2001 dated 22.11.2001 and consequently direct the Respondents not to demolish the petitioners premises as noted above.

Counsel for the Petitioner: MR.MOHD.ZIA-UL-HAQ

Counsel for the Respondent No.1: GP FOR MUNCIPAL ADMN. & URBAN DEVEOPMENT.

Counsel for the Respondent No.2: Mr. Ramarao Gunta, S.C. for Muncipal Corporation.

The Court made the following:

ORDER:

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For declaring the action of the respondents in demolishing the petitioners from their respective houses bearing Door Nos.10-2-346/5, 12-1-886, 10-2-346/3, 10-2-346/2, 10-2-346/1, 12-1-886/2, 10-2-503 and 12-2-842, 44 situated at Mehdipatnam Noble Talikes Cross Road, Hyderabad, as illegal and arbitrary, the present writ petition has been filed.

Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the 3rd respondent/Municipality.

The learned counsel for the petitioner contended that the petitioners are the absolute owner of premises bearing Door Nos.10-2-346/5, 12-1-886, 10-2-346/3, 10-2-346/2,

10-2-346/1, 12-1-886/2, 10-2-503 and 12-2-842, 44 situated at Mehdipatnam Noble Talikes Cross Road, Hyderabad and they have not encroached any Government site. It is his further contention that without initiating land acquisition proceedings, and without issuing any notice, the respondents are trying to demolish the premises in the process of road widening.

On the other hand, the learned counsel appearing for the respondents contended that on mere apprehension only, the petitioners filed this writ petition, and the respondents have not been taken any steps for demolition of the premises of the petitioners.

The Division Bench of this Court in ***P.Lakshmana Rao v. Executive Officer*** issued certain guidelines to be followed by the authorities in acquiring the properties of public for the purpose of widening roads. When a property is required for public purpose viz., for widening of roads or for any other purpose, the authorities straightaway cannot take the law into their hands and jump into the premises and attempt to evict the occupants or dispossess them or demolish their property. Before taking any such action, the authorities concerned shall issue a notice notifying as to the nature of the property, the purpose for which it is required, to whom it belongs and the action proposed calling for explanation or objections, if any, from the occupants and after considering the said objections or explanations, the authorities shall pass appropriate orders, if necessary.

Following the guidelines issued by this Court in the above referred judgment, I deem it appropriate to dispose of the writ petition with a direction to the respondents not to take any steps for demolition of the premises of the petitioners without following due procedure, without initiating land acquisition proceedings and without making any negotiations with the petitioners.

The Writ Petition is, accordingly, disposed of. No order as to costs.

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(ELIPE DHARMA RAO, J)

Date: 21.07.2005

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Assistant City Planner,
   Circle No.4, Khairtabad,
   Hyderabad.
2. The Commissioner,
   M.C.H. Tank Bund, Hyderabad.

3. 2 CCs to G.P. for General Administration, High Court Buildings,

Hyderabad (OUT).

4. 2 CD copies

5. 1 CC to MR.MOHD.ZIA-UL-HAQ

*Form-NIC-OGS/WP{**ANURADHA**}*